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135 W. Trail St., Jackson, MI 49201

July 20, 2016

USNRC Document Control Center
Washington, DC 20555

JSM-04-16

RE: Response to the Apparent Violation in Inspection Report No. 03004868/2016001(DMNS):
EA-16-115

Ladies and Gentlemen:

This letter from Consumers Energy Company (“Consumers Energy”) is in response to above referenced matter and as more fully set forth in the letter from Mr. John B. Giessner, Director of Nuclear Materials Safety, dated June 22, 2016 (the “Letter”). The Letter describes the inspection performed on April 6, 2016 at our Jackson, Michigan facility resulting in “one apparent violation.” On page 2 of the Letter (second paragraph) it provides four (4) matters that this Response should contain. The numbering below corresponds to the numbering set forth in the Letter.

1. We respectfully disagree with the characterization that Consumers Energy committed this “apparent violation.” At the crux of the issue is what 10 CFR 34.47(a) requires in equipment and specifically the following: “that each individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm ratemeter, and a personnel dosimeter.” At the time of the inspection, Consumers Energy’s radiographers were equipped with a Mirion Global Dosimetry TLD personnel dosimeter as well as a DMC2000S alarming ratemeter / direct reading dosimeter. This is a single device and we believe it satisfies the requirements of 10 CFR 34.47(a). Nowhere does the regulation specifically require two separate devices nor does it prohibit the combination of functionality into a single device. We note that the Executive Summary that is attached to the Letter states: “The inspector concluded, based on NRC guidance, that the DMC2000S device **could** satisfy the requirement for a direct reading dosimeter or an alarm ratemeter, but could not simultaneously satisfy the requirement for both functions.” Therefore the Letter itself states that the DMC2000S has the ability to satisfy each of the two requirements it was used for. The Executive Summary refers to “NRC guidance” that was provided to the inspector. Consumers Energy had no notice or knowledge of such NRC guidance. We would point out that 10 CFR 34.5 provides:

“Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission, other than a written interpretation by the General Counsel, will be recognized to be binding upon the Commission.”

Furthermore, there was no oral notice either given to Consumers Energy. For 13 years Consumers Energy has been using the DMC2000S and not a single inspector has raised this issue. In fact, during most of these annual inspections the inspectors personally handled the DMC2000S to see if they were functional and to check calibration dates. One could reasonably assume that if the NRC’s interpretation of Part 34 prohibited the use of combination devices at least one of these inspectors over the course of 13 years would have communicated such to Consumers Energy.

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2. Consumers Energy has fully complied with the corrective action, which was to revert to the RA-500 alarming ratemeter. Consumers Energy is not formally contesting the use of the RA-500 but we believe the device's comparative shortcomings should be taken into consideration. The safety of our radiographers has always been of paramount importance to us. It was our belief that the DMC2000S offered superior protection given its flashing light, low battery indicator and historical data collection in addition to the required audible alarm. During the 13 years we have been using the DMC2000S, doses to our radiographers have been a fraction of the industry average. As noted in the inspection report our highest dose among all radiographers in 2015 was only 444 millirem.

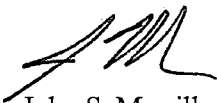
During the phone call with Mr. Harvey and Ms. Piskura of the NRC on April 20, 2016, as an immediate corrective action, Consumers Energy agreed to require radiographers to carry two DMC2000S with each one serving a different purpose. Specifically one DMC2000S will be used as a direct reading dosimeter and the other as an alarming ratemeter. This was accomplished the following day. As a long term corrective action, surplus RA-500s were taken out of storage, inspected, and calibrated. This was accomplished the following day as well. Additional RA-500s were purchased such that all radiographers are now using the DMC2000S only as a direct reading dosimeter and the RA-500 as the alarming ratemeter.

3. Since all corrective steps have been taken to avoid further violations, no further corrective steps are necessary.
4. Full compliance with the corrective action was achieved on April 21, 2016.

Consumers Energy requests that this apparent violation be rescinded on the basis that we did fulfill the requirements of 10 CFR Part 34 by providing all of the necessary functionality for radiographer safety. If it is not possible to rescind this apparent violation, Consumers Energy requests that it be reduced to a non-escalated offense. The complete lack of escalated offenses during my tenure as RSO and Consumers Energy's exemplary record of low doses should also be considered when adjudicating this request. Consumers Energy will continue to equip its radiographers with separate direct reading dosimeters and alarming ratemeters until such time as the NRC deems combination instruments acceptable.

If you should have any questions or need for additional information please contact me at (517) 740-1953.

Sincerely,



John S. Merrill
Radiation Safety Officer
Consumers Energy Company

CC: John B. Giessner,
Director, Division of Nuclear Safety, Region III